

United States District Court
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

OSCAR GARCIA-GONZALEZ

CRIMINAL COMPLAINT

CASE NUMBER: MJ# 03-904-MBB

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about November 12, 2003 in Norfolk county, in the District of Massachusetts defendant ~~Ali~~, (Track Statutory Language of Offense) being an alien and having been excluded, deported or removed from the United States, was found in the United States without having received the express consent of the United States Attorney General to reapply for admission to the United States.

in violation of Title 8 United States Code, Section(s) 1326

I further state that I am a ~~Special Agent, ICE/DHS~~ Special Agent, ICE/DHS and that this complaint is based on the following facts:

See attached affidavit of Special Agent Julia D. Lee

Continued on the attached sheet and made a part hereof:

 Yes No

Signature of Complainant

Sworn to before me and subscribed in my presence,

12-03-2003 @ 2:05 PM at Boston, Massachusetts
 Date City and State

Marianne B. Bowler
 Chief U.S. Magistrate Judge
 Name & Title of Judicial Officer

Marianne B. Bowler USTJG
 Signature of Judicial Officer

AFFIDAVIT OF SPECIAL AGENT JULIA D. LEE

I, Julia D. Lee, having been duly sworn, do hereby depose and state as follows:

1. I am a Special Agent with Immigration and Customs Enforcement ("ICE"), Department of Homeland Security ("DHS") of the United States, and have been so employed since July, 2003. Prior to that appointment, I was employed since February 1998 as an Immigration Agent (Enforcement) with Immigration and Customs Enforcement, DHS, known until March 1, 2003 as the Immigration and Naturalization Service (INS). Among other duties, I am assigned to investigate cases involving persons who have illegally reentered the United States after having been deported.

2. I make this affidavit in support of a criminal complaint against an individual named **OSCAR GARCIA-GONZALEZ**, a/k/a Roberto Quebedo CABANAS, Roberto Quededo CABANAS, Roberto CABANAS-Quedo, Roberto Quededo CABANASS, Ernesto GARCIA, Omar Reyes GARCIA, Oscar GARCIA, Ramon Islas GARCIA, Oscar GARCIA-Gonzalez, Juan GONZALEZ, Oscar Garcia GONZALEZ, Robert GONZALEZ, Oscar MARTINEZ, Roberto C. OCAMPA, Ramon Islas OCAMPO, O. Ramon OCAMPOS, and Roberts C. QUEDEDO, charging him with unlawful reentry after deportation, in violation of Title 8, United States Code, §1326.

3. The information set forth in this affidavit is based on my own investigation, my review of ICE/INS records, as well as information provided by other law enforcement officials.

4. GARCIA-Gonzalez is and at all times has been a native and citizen of Mexico.

5. On July 26, 1990, INS Border Patrol agents arrested GARCIA-Gonzalez under the name Ramon Ocampo Isalas after finding him in Harlingen, Texas. On July 27, 1990, GARCIA-Gonzalez pled guilty to a charge of unlawful entry, in violation of 8 U.S.C. §1325, in the United States District Court, Southern District of Texas, and was returned to Mexico.

6. GARCIA-Gonzalez has since entered, and been removed or deported from the United States several times.

7. On June 16, 1991, less than a year after he was first returned to Mexico, GARCIA-Gonzalez was arrested by Mission, Texas police officers and charged with possession of cocaine. On November 21, 1991, GARCIA-Gonzalez was convicted of the charge in state court and sentenced to ten years of probation. On or around December 12, 1991, he was deported to Mexico.

8. Just months later, however, on January 28, 1992, GARCIA-Gonzalez was arrested by INS Patrol Agents with 129 pounds of marihuana in his possession. GARCIA-Gonzalez presented a valid Texas birth certificate which was issued to Mario Humberto CALDERON Jr., and which was determined not to belong to GARCIA-Gonzalez. In

a sworn statement taken on January 29, 1992, GARCIA-Gonzalez stated his correct name to be Roberto CABANAS-Quebedo.

9. INS agents turned GARCIA-Gonzalez over to local authorities for prosecution. On April 28, 1992, GARCIA-Gonzalez pled guilty to a charge of possessing more than 50 but less than 200 pounds of marihuana, and on June 24, 1992 was sentenced to ten (10) years imprisonment.

10. On January 27, 1993, GARCIA-Gonzalez was released from his state sentence and taken into INS custody. On February 6, 1993, he was deported to Mexico.

11. At some point thereafter, GARCIA-Gonzalez reentered the United States. On June 12, 1998, GARCIA-Gonzalez was apprehended by INS during a work-site enforcement operation in Sebree, Kentucky. On July 29, 1998, GARCIA-Gonzalez was ordered removed from the country following a hearing in New Orleans, LA, and was deported via Laredo, Texas on August 21, 1998.

12. Three days later, however, on August 24, 1998, GARCIA-Gonzalez was arrested by Border Patrol Agents in Hidalgo, Texas. On August 25, 1998, GARCIA-Gonzalez pled guilty to a charge of unlawful entry, in violation of 8 U.S.C. §1325, in the U.S. District Court in the Southern District of Texas, and was immediately removed from the country.

13. Less than a week later, though, on August 31, 1998, GARCIA-Gonzalez was arrested by Border Patrol agents in Combes,

Texas. On September 9, 1998, and after GARCIA-Gonzalez admitted his identity and prior removal from the United States, his prior order of removal was reinstated. On September 28, 1998, GARCIA-Gonzalez was removed from the United States via Brownsville, Texas.

14. On December 5, 1998, just over two months later, GARCIA-Gonzalez was apprehended by Border Patrol agents and returned voluntarily to Mexico.

15. At some point thereafter, GARCIA-Gonzalez reentered the country and returned to Kentucky. On November 20, 2000, Madisonville, Kentucky Police arrested him after a routine traffic stop. On February 9, 2001, GARCIA-Gonzalez pled guilty to a federal charge of unlawful reentry, in violation of 8 U.S.C. 1326(b)(1), and was sentenced to fifteen (15) months imprisonment. On March 29, 2002, GARCIA-Gonzalez was removed to Mexico via El Paso, Texas.

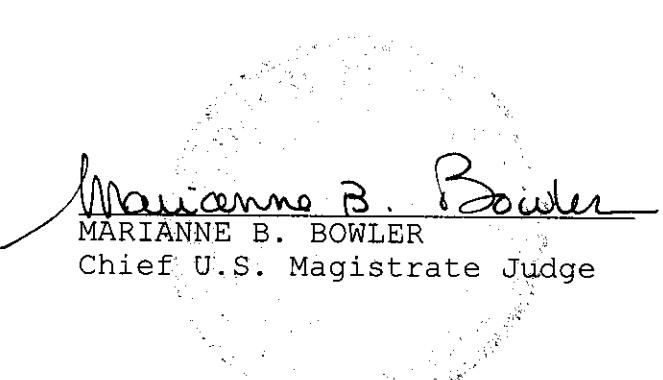
16. GARCIA-Gonzalez reentered the country at some point thereafter and was arrested by Brookline, Massachusetts police on November 12, 2003. GARCIA-Gonzalez stated that his name was Roberto Quededo CABANASS but he was properly identified after an examination of his fingerprints identified him as a deported alien. On November 13, 2003, ICE took custody of GARCIA-Gonzalez and served him with an I-871 Notice of Intent/Decision to Reinstate Prior Order.

17. I have reviewed all available documents contained in GARCIA-Gonzalez's file maintained by ICE/INS and there is no documentation to suggest that he ever applied for permission to reenter the country following his last removal on March 29, 2002. I know from my experience with ICE/INS that if such an application had been made it would be reflected in the ICE/INS file I reviewed.

18. Based on the foregoing, I believe there is probable cause to believe that GARCIA-Gonzalez is an alien who was previously deported from the United States and reentered the United States without having received the express consent of the United States Attorney General, or, since March 1, 2003, from the Secretary for the Department of Homeland Security, to reapply for admission to the United States, in violation of 8 U.S.C. §1326.


Julia Lee, Special Agent
Department of Homeland Security
Bureau of Immigration
and Customs Enforcement Service

Subscribed and sworn to before this 30th day of December,
2003;


MARIANNE B. BOWLER
Chief U.S. Magistrate Judge